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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,474	08/05/2003	Donald R. Loveday	1999U026.US-CON2	6827
25959	7590	04/26/2004	EXAMINER	
UNIVATION TECHNOLOGIES LLC 5555 SAN FELIPE, SUITE 1950 HOUSTON, TX 77056			PASTERCZYK, JAMES W	
			ART UNIT	PAPER NUMBER

1755

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,474

Applicant(s)

LOVEDAY ET AL.

Examiner

J. Pasterczyk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

1. This Office action is in response to the amendment filed 4/5/04 and refers to the first Office action mailed 3/12/04.

2. The terminal disclaimer filed on 4/5/04 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of USP 6,271,323 and 6,274,684 has been reviewed and is accepted. The terminal disclaimer has been recorded.

3. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is not clear what if anything about the structures of the catalyst compounds results in the ability to broaden or narrow the ratio of Mw/Mn with lowering or increasing the reaction temperature of the polymerization process. Such limitations appear to be merely physical characteristics desired in a process analogous to those desired in an article, hence making the claim vague and indefinite; see *ex parte Slob*, 157 USPQ 172 (Bd. Pat. App. & Interf. 1967). Further in this claim, the recitation of the identities of the R¹ and R² groups is still ambiguously worded since in the listing of heteroatoms "silicon . . . or phosphorus" these atoms are all 3 or 4 valent, yet in the formula the R¹ and R² groups only necessarily have 2 valences, resulting in dangling valences on these atoms.

Claims 9-15 have similar problems as noted above regarding claim 1 in that desired properties of the copolymer produced by the process do not appear to necessarily result from the structures of the compounds but could also result from changes in other process parameters; c.f. *Slob* cited above.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Sugimura as cited in and for the reasons of record given in the previous Office action.

6. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugimura in view of Liang, McConville, and Schrock as cited in and for the reasons of record given in the previous Office action.

7. Applicant's arguments filed 4/5/04 have been fully considered but they are not persuasive.

No English language equivalent of the Sugimura reference has been supplied by applicants as the argument suggests. In addition, under the holding of *ex parte Slob* discussed above the physical property limitations found in the present claims would appear to be merely desired rather than necessarily present by virtue of the structures of the chemical compounds as recited used in the claimed process.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is 571-272-1375. The examiner can normally be reached on M-F from 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached at 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



J. Pasterczyk

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4/21/04



Mark L. Bell
Supervisory Patent Examiner
Technology Center 1700